

## MINUTES OF MEETING

### GOVERNOR'S MINED LAND RECLAMATION ADVISORY COMMITTEE

A meeting of the Governor's Mined Land Reclamation Advisory Committee was held on January 22, 2009 at 10:00 a.m. at the Department of Mines, Minerals and Energy Office in Big Stone Gap.

#### Present

Barbara Altizer  
Robert Brendlinger  
Terrance Collier  
Jerry Hamilton  
John Paul Jones  
Jackson McClanahan  
Phil Shelton

#### Absent

Keith Horton  
Tommy McAmis  
Vanessa Perry  
Donna Stanley  
Leslie Vincent  
Douglas Wells

#### Also Present

Jackie Davis  
Sandy Smith

Chairman John Jones called the meeting to order.

Governor's Mountain-top Removal Bill..... John Jones

Governor Kaine, along with Governors from neighboring states, developed a draft Bill for mountain-top removal restrictions and sent to the Environmental Protection Agency (EPA) for concurrence. Tommy Hudson of the Virginia Coal Association, John Jones, and others met with the Department of Mines, Minerals and Energy Director, Steve Walz, and Governor Advisors in Richmond to discuss the proposed Bill. It was determined by environmental groups that the Bill was not a total ban on mountain-top removal mining and it did not receive the needed support; therefore, it was not introduced. It is believed there will be Federal legislation this year to either restrict or ban mountain-top mining.

Stream Buffer Zone Rule.....John Jones

The Stream Buffer Zone Rule was also discussed at the above-mentioned meeting. Tommy Hudson explained that the Stream Buffer Zone Rule was a result of five or six years of work and approximately 40,000 public comments were addressed. It was not a Bush Administration "last minute give-away" as has been implied. The Stream Buffer Zone Rule has been introduced. Two lawsuits have been filed to challenge it.

Congressman Rahall plans to introduce a Federal Bill on building fly ash impoundments or holding structures in accordance with the Surface Mining Control and Reclamation Act (SMCRA). The (EPA) and Office of Surface Mining (OSM) are jointly working on regulations to handle fly ash on mine related facilities. EPA is working on Abandoned Mine Land sites and non-permitted sites; OSM is working on active permitted sites. There was a lengthy discussion of fly ash.

Species-Specific Protective Measures Guide..... John Jones

John made a presentation on the Species-Specific Protective Measures (SSPM) Guide to a group of State associations and the National Mining Association (copy attached). The Species-Specific Protective Measures Guide is a guidance document, not a regulatory document.

A Biological Opinion was worked out between the U.S. Fish & Wildlife Service (F&WS) and Department of the Interior. The Biological Opinion essentially states that as long as the requirements of SMCRA are followed, there will be no more than an incidental take, which is allowable under the Endangered Species Act. A petition has been filed by the Southern Law Center and special interest groups to overthrow the Biological Opinion and require a Section 7 consultation on every permitting action. The Department of the Interior answered the petition by stating the Biological Opinion had done well and there were no documented incidences more than incidentals take.

F&WS wants to put special monitoring restrictions within 10 miles of an endangered species site. A group called Virginia Mining Issues Group and their attorney has been working with F&WS and the Division of Mined Land Reclamation (DMLR) to change the 10 mile limit to 5 miles. The request has been sent to the Secretary. If there is not an official decision made soon, DMLR will implement the Species-Specific Protective Measures as written with a 5 mile monitoring requirement for surface operations and a 10 mile monitoring requirement for preparation plant operations.

TMDL Program Update.....John Jones

The F&WS and EPA are increasing scrutiny on water issues and Total Maximum Daily Loads (TMDL) developments. A settlement agreement was made between DEQ and EPA that EPA would have the TMDL data completed by 2012. EPA does not have the time or money to gather data – the monitoring has to be done quickly and use what equipment is available; therefore, the reports are not always accurate.

A DMLR Hydrogeologist has created a model TMDL program. DEQ, EPA, and other states are interested in reviewing. DMLR staff members attend meetings at Virginia Tech with the MapTech group for the purpose of getting a scientific based TMDL program.

There was a lengthy discussion of TMDL, Total Suspended Solids, and Total Dissolved Solids.

New Division of Mined Land Reclamation Officials.....Jackie Davis

Some major changes have occurred at DMLR over the last few months due to retirements and staff modifications. Jackie Davis is the new Division Director. Jackie provided some background of his expertise/experience in State government. He served as a field inspector and has been involved with the coal mining industry for approximately 25 years. Randy Casey is the Projects Manager for the Abandoned Mine Land (AML) Program, particularly engineering. Randy is a Professional Engineer. He works closely with numerous local government agencies,

Lenowisco, and the Cumberland Plateau. Gavin Bledsoe is the new Reclamation Services Manager. Gavin has more than 30 years of regulatory experience.

Other topics of discussion by Committee members:

- DMLR Inspectors will be distributing copies of the new OSM rules on the construction of fills and the 16 point checklist they use for inspections.
- Community colleges should provide more technical training to attract younger people to the mining industry.
- Restart the Permit Enhancement Work Group meetings.
- The Virginia Mining Association will conduct an 8-hour seminar on March 10, 2009, at the Southwest Virginia Higher Education Center in Abingdon, Virginia. The seminar is designed consistent with the Virginia continuing education requirements for recertification for Professional Engineers in mining. Presentation will address current mining and reclamation issues. (See attached notice) A final agenda, instructor list, and registration instructions will be provided by early February. To reserve a seat, please contact Margie Horton at (276) 679-4211 or [Margie@virginiaminingassoc.com](mailto:Margie@virginiaminingassoc.com). Space is limited.

Jack McClanahan requested to share information about plans for recreational trails. As of July 1, 2008, the legislature enacted the Southwest Regional Recreational Authority of Virginia. Jack is Chairman of this group. It covers Lenowisco and the Cumberland Plateau areas and is dedicated to the development and maintenance of trails. The Tobacco Commission granted enough money to do a feasibility study that should be completed in approximately six months.

Jack believes the development of trails has the potential to be a liaison to show how mined land can be compatible with recreation. It can also be an economic engine. He would like to have input from Committee members. For more information, you may contact Jack (phone number/e-mail on Committee members list).

Phil Shelton expressed what he perceives to be problems with the coal mining industry. He believes all the opposition to mining is not misguided and the industry should educate people as to what is happening with mountain-top removal mining, streams being eliminated, etc.

Meetings were scheduled for Thursday, April 23 at 10:00 a.m. and Thursday, October 22 at 10:00 a.m.

There being no more discussions, the meeting was adjourned.